



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/16/0002

Re : Property at 24 Limefield Road, Bathgate EH48 1QY ("the Property")

Title Number: WLN17101

The Parties:-

Miss Vicki Fleming, residing at 24 Limefield Road, Bathgate EH48 1QY ("the Tenant") and

Miss Anne Millar, residing sometime at 222 East Main Street, Broxburn and now at 1A Glenfaulds, 10 Mountstuart Street, Rothesay, Isle of Bute PA20 9DY ("the Landlord")

NOTICE TO MISS ANNE MILLAR ("the Landlord")

Whereas in terms of their decision dated 21 March 2016, the Private Rented Housing Committee determined that the landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the landlord has failed to ensure that:-

- (a) the Property is wind and water tight and in all other respects fit for human habitation,
- (b) the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order,
- (c) the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order,
- (d) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order, and
- (e) the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire,

the Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the Private Rented Housing Committee requires the Landlord:-

1. To monitor the drying out of the wall in the hallway of the Property and, thereafter to redecorate it when that process is complete.
2. To exhibit a current Electrical Installation Condition Report in respect of the Property and to instruct a suitably qualified electrician to remedy any defects specified in the report and to carry out such works as are required to ensure the light in the main bedroom is functioning properly and safely.
3. To install carbon monoxide detectors in the Property in accordance with the Scottish Government Guidance for the Provision of Carbon Monoxide Alarms in Private Rented Housing, which came into effect on 1 December 2015.
4. To exhibit a current Gas Safety Certificate in respect of the gas installation in the Property.
5. To carry out such repairs to the French doors in the living room of the Property as are necessary to ensure that they are wind and water tight and that they open and close in a safe and proper manner according to the manufacturers' specification or, alternatively, to replace them.
6. To grout and seal the bathroom tiling.
7. To replace the missing drawer and doors of the kitchen units and carry out such work as is necessary to make the kitchen units and drawers secure.
8. To install in the Property interlinked, mains-wired smoke detectors and a heat alarm in the kitchen of the Property, all of which comply with the revised Domestic Technical Handbook and the Scottish Government's guidance on the requirements for smoke alarms.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of eight weeks from the date of service of this Notice.

A landlord or a tenant aggrieved by the decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

In witness whereof these presents typewritten on this and the preceding page are executed by George Barrie Clark, solicitor, Lasswade, chairperson of the Private Rented Housing Committee at Lasswade, on 21 March 2016, before this witness, Valerie Elizabeth Jane Clark, Droman House, 5 School Brae, Lasswade, Midlothian.

V Clark _____ witness

___ **G Clark** _____ chairman



Statement of decision of the Private Rented Housing Committee under Section 24 (1) of the Housing (Scotland) Act 2006

prhp Ref: PRHP/RP/16/0002

Re : Property at 24 Limefield Road, Bathgate EH48 1QY ("the Property")

The Parties:-

Miss Vicki Fleming, residing at 24 Limefield Road, Bathgate EH48 1QY ("the Tenant") and

Miss Anne Millar, residing sometime at 222 East Main Street, Broxburn and now at 1A Glenfaulds, 10 Mountstuart Street, Rothesay, Isle of Bute PA20 9DY ("the Landlord")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application, received on 7 January 2016, the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. The application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with her duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
 - (a) the house is wind and water tight and in all other respects reasonably fit for human habitation,
 - (b) the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order,
 - (c) the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order,
 - (d) any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order, and
 - (e) the house has satisfactory provision for detecting fires and for giving warning in the event of a fire or suspected fire.
3. By letter dated 11 February 2016 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.

4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.
5. Following service of the Notice of Referral, nor the Landlord made written representations to the Committee.
6. The Private Rented Housing Committee inspected the Property on the morning of 21 March 2016. The Tenant was present at the inspection. The Landlord was not present or represented at the inspection.
7. A file of photographs, taken at the inspection, is attached to and forms part of this Statement of Decision.
8. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Linlithgow Burgh Halls, Cross House, Linlithgow EH49 7AH. Neither the Tenant nor the Landlord was present or represented at the hearing.
9. The Committee comprised George Clark (Chair) and Susan Napier (surveyor member).
10. The Tenant, in her application stated as follows:-
 - The Tenant and her family had had no heating or hot water for 7 weeks, as the central heating boiler was not working.
 - There was an ongoing leak in the roof above the hallway of the Property, resulting in damage to the walls, carpet and flooring.
 - There were loose bare wires coming from the box when the electrics had been earthed 4 years ago.
 - There was no carbon monoxide detector in the Property.
 - There had not been a gas safety check in the last two years.
 - The mechanism in the French doors in the living room was broken. The doors needed to be replaced.
 - The toilet in the downstairs toilet did not flush properly and tended to become blocked.
 - There was damp on the ceiling of the children's bedroom.
 - The central light in the main bedroom had not worked since the Tenant had moved in.
 - A new bath had been fitted by the Landlord, but the tiles had not been silicone.
 - There were 2 kitchen cupboards missing and 2 other were loose.
 - The Tenant had reported all of these faults to the Landlord over a long period of time, but she would not return calls, voicemails or texts.
11. The Tenant advised the Committee at the inspection that the central heating boiler had been replaced in December 2015 and was working satisfactorily and that repair work to the roof above the hallway had been carried out in March 2016. Whilst this appeared to have resolved the problem of water coming in, the Landlord had not carried out the necessary redecoration to the ceiling and wall which had been affected by the leak.

Summary of the issues

12. The issues to be determined were whether the Property met the repairing standard as laid down in Section 13 of the Act and whether the Landlord had complied with the duties imposed on landlords by Section 14(1)(b) of the Act.

Findings of fact

13. The Committee finds the following facts to be established:-

- The tenancy is a Short Assured Tenancy which commenced on 1 April 2015, although it appears that the Tenant has been in the Property since at least 2010, so the Committee assumes that there has been a succession of tenancies.
- The Property comprises a two-bedroomed semi-detached dwellinghouse over two floors in a residential area of Bathgate and is of relatively modern design.
- An Ideal central heating boiler has recently been installed in the Property.
- The ceiling in the hallway appears to be dry, but there is evidence of damp in the party wall and there is significant damage to the wallpaper and decoration in the wall.
- There is exposed wiring leading from the electrical transformer box. The consumer unit and meter unit appear to be fairly new.
- There is no carbon monoxide detector in the Property.
- The Committee has not seen a Gas Safety Certificate in respect of the Property.
- There is a visible gap along the top of the French doors in the living room of the Property and it is necessary to physically lift them upwards before opening or closing them.
- The Committee did not inspect the downstairs toilet as the Tenant advised that this issue should be removed from the application.
- There is evidence of an historic repair to the ceiling of the second bedroom in the Property, which has then been poorly redecorated. The area of the repair was, however, found to be dry at the time of the inspection. The Committee observed that the double glazed window unit in this room has failed or is defective and, whilst it does not form part of the Tenant's application, the Committee would recommend that it be replaced.
- The Tenant told the Committee at the inspection that if the light in the main bedroom was switched on, it tripped the electrics for the entire property. Accordingly, the Committee did not test the light.
- The tiling around the bath in the Property has not been grouted and there is no silicon seal between the tiling and the edge of the bath.
- There are two kitchen units missing. There are drawers missing from one of the floor units and one of the drawers in that unit is loose.
- The only means of detecting fire in the Property comprises two battery-operated smoke detectors, one on the ground floor and one on the upper floor. The Tenant advised the Committee at the inspection that she had fitted them. They had not been provided by the Landlord.

Reasons for the decision

14. The Committee accept that the central heating boiler has been replaced and that the roof above the hallway of the Property has been repaired. The party wall in the hallway was tested with a moisture meter at the inspection and was still showing signs of dampness. It is likely that it is still drying out following the repair to the roof above, but it will have to be redecorated when the drying-out process has been completed, as the wallpaper is damaged and in places is coming away from the wall. The Committee has concerns about the bare wiring adjacent to the electrical transformer box and the fact that the light in the main bedroom does not appear to work without tripping the electrical system. In order to ensure the safety of tenants in the Property, the Committee wishes to see an up to date Electrical Installation Condition Report. The Committee is also concerned that it has not seen a current Gas Safety Certificate in respect of the Property. There is a clear safety implication raised by the condition of the French doors in the living room and in particular the manner in which they have to be opened and closed. The absence of grout between the tiles and sealant around the bath creates an obvious risk that water will pass through the gaps and penetrate the room below the bathroom. The kitchen cupboards are in need of urgent attention. The Committee accepts that this will be as a result of wear and tear, but it is still the responsibility of the Landlord to carry out the necessary repair and reinstatement work. The Committee is extremely concerned that the Landlord had not installed mains-wired, interlinked smoke detectors in the Property. Their absence constitutes a significant safety risk for the Tenant and her family.

Decision

- 15. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
- 16. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
- 17. The decision of the Committee was unanimous.

Right of Appeal

- 18. **A landlord or tenant aggrieved by the decision of the Private Rented Housing committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.**

Effect of section 63

- 19. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed **G Clark** Date 21 March 2016
Chairperson